

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RICHARD FUNMAN,

Plaintiff,

v.

SUSAN WARD, et al.,

Defendants.

Case No. 5:14-cv-03411-PSG

**ORDER REASSIGNING CASE TO A
DISTRICT JUDGE WITH REPORT
AND RECOMMENDATION THAT
CASE BE REMANDED AND
APPLICATION TO PROCEED IN
FORMA PAUPERIS BE
DENIED-AS-MOOT**

(Re: Docket No. 2 and 4)

Before the court are a series of filings which appear to seek leave of this court to (1) remove a state court case and (2) to proceed in forma pauperis. Because the record before the court does not provide the undersigned with an adequate basis to identify the claims and parties in the case,¹ the court cannot say that removal was proper nor can this court assert jurisdiction. Because this court has an independent, ongoing obligation to establish jurisdiction that cannot be waived, remand is warranted.² Absent the consent of the parties,³ the court ORDERS the case reassigned to a district judge with the report and recommendation that the case be remanded.⁴

¹ See Docket Nos. 1,1-1, 2, 4, 4-1 and 5.

² See *LFG Nat'l Capital, LLC v. Alioto*, Case No. 3:13-cv-01930-SI, 2013 WL 3286224, at *2 n.1 (N.D. Cal. June 27, 2013).

1 **IT IS SO ORDERED.**

2 Dated: August 7, 2014

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4 PAUL S. GREWAL
5 United States Magistrate Judge

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United States District Court
For the Northern District of California

21 Subject matter jurisdiction, however, cannot be waived, and federal courts have a
22 continuing, independent obligation to determine whether subject matter jurisdiction exists.
23 *See Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006) (citing *Ruhgras AG v. Marathon*
24 *Oil Co.*, 526 U.S. 574, 583 (1999)) (“All courts have an ‘independent obligation to
determine whether subject-matter jurisdiction exists, even in the absence of a challenge
from any party.’”); *see also Leeson v. Transamerica Disability Income Plan*, 671 F.3d 969,
975 n.12 (9th Cir. 2012).

25 ³ This court is ordering reassignment to a district judge because, absent consent of all parties, the
26 undersigned magistrate does not have the authority to make case-dispositive rulings. *See Tripathi v.*
Rison, 847 F.2d 548, 548-49 (9th Cir. 1988).

27 ⁴ The undersigned also recommends that the district judge deny Plaintiff’s application to proceed in
28 forma pauperis as-moot.